IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

SUMMARY SUIT NO.2616 OF 2006

Abbasbhai Mohammedbhai Rangwala ..Plaintiff.
Vs.
Yahyabhai Nazarali Rangwala & Ors. ..Defendants.

...

Mr. S.E. Sabir i/b Nandlal Kothari & Sabir for the Plaintiff.
None for the Defendant.

....

CORAM: **DR. D.Y. CHANDRACHUD, J.**

30th April, 2007.

P.C. :

1. The claim in the suit under Order 37 is based on a promissory note in the amount of Rs.1 lac executed by the First Defendant on 8th August, 2001 for consideration received. The Second and Third Defendants have appended signatures thereto as guarantors. Towards the repayment of a sum of Rs.1 lac four cheques in the total amount of Rs.5,000/- were issued by the First Defendant in December 2003 and January 2004 which were realized leaving a balance of Rs.80,000/-. The balance was confirmed by the

Defendants in a communication dated 20th March, 2004. Despite letters of demand, payment has not been effected. The suit was instituted on 28th August, 2006 within a period of three years of the date of acknowledgment.

2. The Defendant has not entered appearance despite service of the writ of summons. An affidavit of service has been filed. A compilation of the original documents has also been filed on the basis of which the claim is established. The claim in the suit falls within the purview of Order 37 of the Code of Civil Procedure. The suit is accordingly decreed as prayed subject to the modification that the Plaintiff will be entitled to interest at the rate of 12% per annum from the date of the institution of the suit until the date of the decree and at the same rate from the date of the decree until payment or realization on the principal sum of Rs.80,000/-.

Refund of Court Fess, if any, as per rules.